



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/529,653	06/26/00	ZOU	8737-000007

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IM52/0917

EXAMINER

WALLS, D

ART UNIT

PAPER NUMBER

1731

10

DATE MAILED: 09/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/529,653

Applicant(s)
Zou et al

Examiner
Dionne A. Walls

Art Unit
1731



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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DETAILED ACTION

Specification

1. The instant application, including the specification, appears to be a literal translation into English from a foreign document and contains awkward syntax and idiomatic errors. Applicant is requested to review and correct the specification to overcome these informalities.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 1, the phrase "if necessary" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). The examiner suggests deletion of this phrase.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8266261 (Abstract).

JP 8266261 discloses a cigarette having a main body and a filter attached integrally to an end of the main body, said filter comprising dried and crushed ginkgo leaves (see abstract). By providing a cigarette filter formed of ginkgo leaves, a cigarette comprising ginkgo leaves "as its material" is obviously provided because a filter can be considered "material" that is included in a conventional cigarette. While the reference may be silent as to the percentage of ginkgo leaves which comprise said material, it would have been obvious to one having ordinary skill in the art at the time of the invention to construct a filter material with at least 50 weight % ginkgo leaves in order to effectively decrease the foul smell emanating from the smoking article, which is the advantage of utilizing such an herb, as taught in JP 08266261, and to enhance the effectiveness of the filter.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- CN 1066173 (Abstract)

- CN 1140036 (Abstract)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Dionne A. Walls whose telephone number is (703) 305 - 0933.

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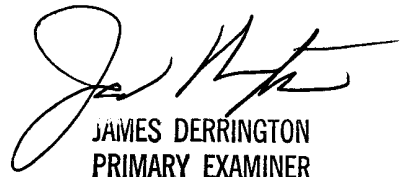
The examiner can normally be reached Monday-Thursday from 6:30AM - 4:00PM (EST). The examiner can also be reached on alternate Fridays.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached at (703) 308-3837. Additionally, the fax number for this Group is (703) 305-7718.



Dionne A. Walls

September 13, 2001



JAMES DERRINGTON
PRIMARY EXAMINER
ART UNIT ~~137~~ 1731